

(c) *Appellate authority.* Upon appeal a settlement authority has the same authority to settle a claim as that specified above. However, no appellate authority below the Office of the Secretary of the Air Force may deny an appeal of a claim it previously denied.

(d) *Authority to reduce, withdraw, and restore settlement authority.* Any superior settlement authority may reduce, withdraw, or restore delegated settlement authority.

(e) *Settlement negotiations.* A settlement authority may settle a claim filed in any amount for a sum within the delegated settlement authority regardless of the amount claimed. Unsettled claims in excess of the delegated settlement authority are sent to the individual with higher settlement authority. Unsuccessful negotiations at one level do not bind higher authority.

(f) *Special exceptions.* No authority below the level of HQ USAF/JACC may settle claims for:

(1) Legal malpractice.

(2) On the job personal injury or death of an employee of a government contractor or subcontractor.

(3) Assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution committed by an investigative or law enforcement officer.

#### § 842.103 Filing a claim.

This paragraph explains how to file a claim under the National Guard Claims Act.

(a) *How and when filed.* A claim is filed when a federal military agency receives from a claimant or duly authorized agent a properly completed SF 95 or other written and signed demand for money damages in a sum certain. Claims belonging to another agency are promptly transferred to the correct agency.

(b) *Receipt of claims from State National Guard agencies.* The Office of the State Adjutant General promptly sends claims it receives to the appropriate Air Force claims authority in whose geographic area the incident occurred. The report forwarded to the Air Force includes:

(1) The date, place, and nature of the incident.

(2) The names and organizations of ANG members involved, and the statutory duty status of the ANG members at the time of the incident (include copies of orders, if applicable).

(3) A scope of employment statement from the supervisors of the ANG members involved.

(4) The names of the claimants.

(5) A brief description of any damage to private property, personal injuries, or death.

(c) *Claims investigations.* (1) Upon receipt of a claim:

(i) It is investigated by claims office personnel responsible for the geographic area where the incident causing the claim occurred.

(ii) The investigative report includes a scope of employment statement and a copy of the orders authorizing the performance of duty by the ANG member.

(2) The State Adjutants General designate an official or office as point of contact for Air Force claims personnel and furnish necessary personnel to assist the Air Force investigation, subject to the availability of funds and personnel.

(d) *Amending a claim.* A claimant may amend a claim at any time prior to final action. To amend a claim the claimant or his or her authorized agent must submit a written, signed demand.

#### § 842.104 Advance payments.

Subpart Q of this part sets forth procedures for such payments.

#### § 842.105 Statute of limitations.

A claim must be filed in writing within 2 years after it accrues.

(a) Federal, not state law, determines the time of accrual. A claim accrues when the claimant discovers or reasonably should have discovered the existence of the act that resulted in the claimed loss.

(b) In computing the statutory time period, the day of the incident is excluded and the day the claim was filed is included.

(c) A claim filed after the statute has run is considered if the United States is at war or in an armed conflict when the claim accrues; or if the United States enters a war or armed conflict after the claim accrues, and good cause is shown. No claimant may file a claim